

UNITED STATES COURT
DISTRICT OF MASSACHUSETTS

TERRI J. PEDATO, As Mother and Next)
Friend of RICHARD MORRILL)
Plaintiff)

VS.)

FRED G. ARRIGG, JR., M.D.,)
Defendant)

CIVIL ACTION
NO: 03CV-12223 RGS

**ANSWER OF THE DEFENDANT, FRED G. ARRIGG, JR., M.D.
TO PLAINTIFF'S COMPLAINT**

Now comes the defendant, Fred G. Arrigg, Jr., M.D., and makes answer to plaintiff's

Complaint as follows:

FIRST DEFENSE

1. The said defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the plaintiff's Complaint.

2. The said defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the plaintiff's Complaint.

3. The said defendant admits that he is and was a physician licensed to practice medicine in the Commonwealth of Massachusetts with a principal professional office in Lawrence, County of Essex, in the Commonwealth of Massachusetts. It is further admitted that the defendant is a specialist in eye, ear, nose and throat medicine and surgery.

4. The said defendant is without sufficient information to admit or deny the allegations with respect to jurisdiction, and calls upon the plaintiff to prove the facts necessary to demonstrate the contentions within this paragraph.

5. The said defendant admits that he is a Massachusetts resident and further that the minor plaintiff was treated within the Commonwealth of Massachusetts.

6. The said defendant admits that on or about September 7, 2000, he performed a surgical procedure, revision tympanomastoidectomy to treat a cystic mass.

7. The said defendant denies the allegations contained in Paragraph 7 of the plaintiff's Complaint.

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8. The said defendant admits that the minor plaintiff was referred to a surgeon from the Lahey Clinic who performed surgery. The said defendant is without sufficient information to admit or deny the remaining allegations of this paragraph.

9. The said defendant denies the allegations contained in Paragraph 9 of the plaintiff's Complaint.

10. The said defendant denies the allegations contained in Paragraph 10 of the plaintiff's Complaint

COUNT I

10. The said defendant repeats and reavers and incorporates herein by reference his answers to Paragraphs 1 through 10 of the plaintiff's Complaint.

11. The said defendant denies the allegations contained in Paragraph 11 of Count I of the plaintiff's Complaint.

12. The said defendant denies the allegations contained in Paragraph 12 of Count I of the plaintiff's Complaint.

SECOND DEFENSE

And further answering the said defendant says that the Complaint, and each and every count thereof, fails to state a cause of action.

THIRD DEFENSE

And further answering, the said defendant says that the plaintiff was not in the exercise of due care, but rather the negligence of the plaintiff contributed to cause the injury or damage complained of, wherefore the recovery of the plaintiff is barred in whole or in part, or is subject to diminution.

FOURTH DEFENSE

And further answering, the said defendant says that the plaintiff assumed the risk of injury and damage and cannot recover in this action.

FIFTH DEFENSE

And further answering, the said defendant says that this action has not been brought within the time specified by the General Laws of this Commonwealth.

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SIXTH DEFENSE

And further answering, the said defendant says that the within action is barred by the provisions of the Massachusetts General Laws, Chapter 258.

SEVENTH DEFENSE

And further answering, the said defendant denies that Diversity Jurisdiction has been properly pleaded.

EIGHTH DEFENSE

And further answering, the said defendant denies that Diversity Jurisdiction exists.

**THE SAID DEFENDANT, FRED G. ARRIGG, JR., M.D., REQUESTS
A TRIBUNAL HEARING AND CLAIMS A TRIAL BY JURY**

By his attorneys,

FICKSMAN & CONLEY, LLP



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CERTIFICATE OF SERVICE

I, Kenneth D. Weiss, attorney for said defendant, hereby certify that I have this day served a copy of the foregoing document upon the plaintiff by mailing a copy thereof, postage prepaid, directed to: Joseph G. Abromovitz, Esq., 858 Washington Street - Third Floor Dedham, MA 02026

Signed under the penalties of perjury.

DATED: March 17, 2004



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